

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLIFTON GIBBON,

07 Civ. 6698 (NRB)

Plaintiff,

- against -

PLAINTIFF'S RESPONSE TO
DEFENDANT'S LOCAL
RULE 56.1 STATEMENT

CITY OF NEW YORK,

Defendant.

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Plaintiff Clifton Gibbon ("Gibbon") responds to Defendant's Local Rule 56.1 Statement of Undisputed Material Facts as follows:

1. Admits.
2. Admits, except states that Assistant City Highway Repairers ("ACHR's") are laid off at the conclusion of the paving season, and have preferential reinstatement rights at the beginning of the next season. Declaration of Jason Friedman, Ex. D, at § 3(a).
3. Admits.
4. Admits.
5. Admits.
6. Admits.
7. Admits that plaintiff was required to pass a drug test every season.
8. Admits.

9. Admits that plaintiff was notified that he was required to pass a drug test at the beginning of 2006.

10. Admits.

11. Admits.

12. Admits.

13. Admits.

14. Admits, except that the year was 2006.

15. Admits.

16. Refers the Court to the document for its contents.

17. Denies. The determination by Jeffrey Altholz, M.D., had no reasonable basis.

Declaration of Stuart Lichten ("Lichten Dec."), Ex. B.

18. Refers the Court to the document for its contents.

19. Refers the Court to the document for its contents.

20. Refers the Court to the document for its contents.

21. Refers the Court to the document for its contents.

22. Refers the Court to the deposition transcript for its contents. Denies that plaintiff had been prescribed Flomax in December 2005. Plaintiff was prescribed Flomax on November 18, 2005. Lichten Dec., Ex. B.

23. Refers the Court to the deposition transcript for its contents.

24. Refers the Court to the deposition transcript for its contents.

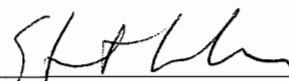
25. Refers the Court to the document for its contents.

26. Refers the Court to the document for its contents.

27. Admits that plaintiff consulted Marlene Corujo, M.D., but refers the Court to the document for its contents.

Dated: New York, New York
June 2, 2008

SCHWARTZ, LICHTEN & BRIGHT, P.C.



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